



**4310-FB**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLNM006200 L99110000.EK0000 XXX L4053RV]**

**Final Notice: Implementation of Helium Stewardship Act Sales and Auctions**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Secretary of the Interior (Secretary), through the Bureau of Land Management (BLM), New Mexico State Office, is issuing this Final Notice to conduct auctions and sales from the Federal Helium Program, administered by the BLM New Mexico Amarillo Field Office. The BLM will use the sale and auction process outlined in this Notice for the sales and auctions that the Helium Stewardship Act of 2013 (“the Act”) requires the BLM to conduct during fiscal year (FY) 2014. This Notice does not apply to sales or auctions conducted after FY 2014. The BLM’s process for sales and auctions conducted after FY 2014 will be announced in subsequent notices or through rulemaking to the extent rulemaking is necessary to implement the Act. Information included in this Notice regarding the BLM’s anticipated actions beyond FY 2014 is provided for planning purposes only and is subject to change. This action takes into consideration public comments received as a result of the Notice of Proposed Action published in the Federal Register on May 16, 2014.

**DATES:** This implementation plan is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Robert Jolley, 806-356-1002.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339. The FIRS is available 24 hours a day, 7 days a week, to leave a message for Mr. Jolley. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose and Background**

The BLM published a Notice of Proposed Action: Implementation of Helium Stewardship Act Sales and Auctions, in the Federal Register on May 16, 2014 (79 FR 28540). The Notice contained background information on the Act, definitions of terms used in the Notice, the reasons for proposing the action, and a proposed process for conducting the auctions and sales. The BLM requested comments regarding the proposed process for conducting the auctions and sales required under the Act. A summary of changes made as a result of those comments is provided below:

**Summary of Changes**

<b>Affected Text</b>	<b>Explanation of Change</b>
Supplementary Information	Updated the Supplementary Information with a summary of changes.
Supplementary Information	Provided web links to the full comments and comment and response summary.
Supplementary Information	Added discussion of forms required to be submitted to the BLM as a condition of sale or auction.
Supplementary Information	Added information regarding the fees required for participation in sales and auctions, as well as storage fees.

Section 1.02	Revised the definition of "Tolling Agreement" to mean an agreement between a helium refinery, located on the Federal Helium System pipeline, and any other party to refine helium at a specified volume and price.
Sections 1.02 and 2.15	Added definition of "Storage Contract Holder" and added information regarding expiration of the current contract on September 30, 2015, and the BLM's intention to have a new contract in place by October 1, 2015. Added link to the current contract.
Section 1.04	Updated the tables and modified discussion to address not reserving a 10 percent contingency from volumes to be sold and auctioned for delivery in FY 2015 and beyond.
Section 1.04	Lowered the annual In-Kind estimate to 160 MMcf (one million cubic feet) and added 10 MMcf in the volumes to be sold and auctioned in FY 2015 and beyond. Updated table and modified discussion to reflect the estimate of In-Kind.
Sections 2.01, 2.03, 2.07, 2.08, 2.11, 2.15, 2.17	Updated the text to reflect the changes in sales and auction volumes, as well as changes to the proposed schedule.
Section 3.01-3.04	Adjusted the delivery discussion to account for overage and shortage conditions, explanation of the dynamic process of delivery and coordination requirements, use of the formula in shortage condition, removal of 2-for-1 bonus and simplification of formula.

#### B. Public Comment: Analysis of Comments and Changes

In response to the invitation in the Notice of Proposed Action, nine commenters, who are refiners and non-refiners, submitted about 58 comments totaling 56 pages. The BLM developed a table of comments and responses which is available for public review at: [www.blm.gov/nm/HSAImplementation](http://www.blm.gov/nm/HSAImplementation). Based upon the comments received, the BLM has revised the Notice of Proposed Action, published in the Federal Register on May 16, 2014 (79 FR 28540).

The BLM has also developed several forms to assist refiners in reporting required information to the BLM. The forms are available

at: [www.blm.gov/nm/HSAImplementation](http://www.blm.gov/nm/HSAImplementation). The forms are:

**Excess Refining Capacity Form** □ This form standardizes reporting to the BLM necessary to satisfy the terms-and-conditions section of the Act, which requires the refiners to make excess refining capacity available at commercially reasonable rates. The Act requires the BLM to aggregate this data and post the aggregated data on a public website. The form can also be used to inform the BLM of changes in the refiner's calculation of excess refining capacity as they occur. This form is due to the BLM by July 29, 2014, and should be resubmitted to the BLM within two weeks of any changes in excess refining capacity exceeding +/- 10 percent.

**Tolling Report Form** – This form provides documentation of the tolling agreements that were entered into between a refiner and another party during the preceding year. The refiner may also take this opportunity to document its attempts to negotiate tolling with other parties. This form is due to the BLM annually by September 30.

**Tolling Occurrence Report** – This form should be submitted throughout the year whenever a refiner enters into a tolling agreement with another party. This form is due to the BLM within 2 weeks of entry into a tolling agreement.

The fee structure used by the BLM for storage contract holders and participants in the sales or auctions is provided at: [www.blm.gov/nm/HSAImplementation](http://www.blm.gov/nm/HSAImplementation). These forms and the information collected do not require Office of Management and Budget approval under the Paperwork Reduction Act because there are fewer than ten potential respondents (44 U.S.C. 3501 et seq.)

## **Implementation Plan**

**1.01 What is the purpose of this Implementation Plan?** The Secretary, through the BLM, New Mexico State Office, is issuing this Final Notice to conduct auctions and sales from the Federal Helium Reserve, administered by the BLM New Mexico Amarillo Field Office.

**1.02 What terms do I need to know to understand this Notice?** Unless otherwise noted, the following definitions apply to helium sales and auctions that will be conducted in FY 2014. The definitions provided are taken from the Act, existing regulations, and established industry practice. These definitions apply only for purposes of the sales conducted in FY 2014 under this Notice.

**Allocated sale** means a Phase A crude helium sale under which crude helium is sold to refiners.

**Auction volume** means those volumes of the Federal Helium Reserve offered for sale to any person or qualified bidder under the Act in an auction.

**Cliffside Field** means the subterranean formation near Amarillo, Texas, used as a helium storage reservoir and in which the Federal Helium Reserve is stored.

**Crude helium** means a partially refined gas containing about 70 percent helium and 30 percent nitrogen. However, the helium concentration may vary from 50 to 95 percent.

**Excess refining capacity** means a refiner's reported operational refining capacity minus the refiner's forecasted crude helium demand for that particular fiscal year. The BLM will require each refiner to report excess refining capacity in advance of all Phase B sales as a condition of those sales. (NOTE: Section 6(b)(8)(B) of the Act, 50 U.S.C.

167d(b)(8)(B), states: "(B) Condition. -- As a condition of sale or auction to a refiner

under subsection (a)(1) and paragraphs (1) and (2) effective beginning 90 days after the date of enactment of the Helium Stewardship Act of 2013, the refiner shall make excess refining capacity of helium available at commercially reasonable rates to - (i) any person prevailing in auctions under paragraph (2); and (ii) any person that has acquired crude helium from the Secretary from the Federal Helium Reserve by means other than an auction under paragraph (2) after the date of enactment of the Helium Stewardship Act of 2013, including nonallocated sales.”)

**Federal Helium Pipeline** means the federally owned pipeline system through which helium extracted from the Federal Helium Reserve may be transported.

**Federal Helium Reserve** means helium reserves owned by the United States that are stored in the Cliffside Field.

**Federal Helium System** means:

- (1) The Federal Helium Reserve;
- (2) The Cliffside Field;
- (3) The Federal Helium Pipeline; and
- (4) All other infrastructure owned, leased, or managed under contract by the Secretary for the storage, transportation, withdrawal, enrichment, purification, or management of helium.

**Federal In-Kind crude helium or “In-Kind helium”** means helium purchased by private refiners who have sold or are selling to Federal users and their contractors a quantity of refined helium equivalent to the quantity of crude helium the refiner is purchasing or will purchase from the BLM under contract, under the requirements and

procedures of 43 CFR part 3195. The refined helium initially supplied to a Federal user or its contractor may come from a source outside the Federal Helium Reserve.

**Helium storage contract** means a contract between the BLM and a private entity allowing the private entity to store crude helium in underground storage at the Cliffside Field.

**HPA** means the Helium Privatization Act of 1996, Public Law 104-273, 110 Stat. 3315.

**HSA** means the Helium Stewardship Act of 2013, Public Law 113-40, 127 Stat. 534.

**Mcf** means one thousand cubic feet of gas measured at standard conditions of 14.65 pounds per square inch atmosphere (psia) and 60 degrees Fahrenheit.

**MMcf** means one million cubic feet of gas measured at standard conditions of 14.65 psia and 60 degrees Fahrenheit.

**Non-allocated sale** means a Phase A crude helium sale, under which crude helium is sold only to non-refiners.

**One-time sale** means a sale of helium from amounts available for delivery in FY 2016 offered by the BLM in FY 2014 under the HSA, 50 U.S.C. 167d(b)(13).

**Person** means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or State or political subdivision.

**Phase A** means the allocation transition period prescribed in the HSA at 50 U.S.C. 167d(a).

**Phase B** means the auction implementation period prescribed in the HSA at 50 U.S.C. 167d(b).

**Phase B sale** means a sale of helium offered by the BLM to refiners during Phase B under the HSA, 50 U.S.C. 167d(b)(1), after completion of an auction.

**Phase B auction** means an auction of helium offered by the BLM during Phase B under the HSA, 50 U.S.C. 167d(b)(2).

**Priority pipeline access** means the first priority of delivery of crude helium under which the Secretary schedules and ensures the delivery of crude helium to a helium refinery through the Federal Helium System.

**Production capability** means the estimated or calculated physical volume of helium that can be produced from the Cliffside Field.

**Qualified bidder** means a person the Secretary determines is seeking to purchase helium for the person's own use, refining, or redelivery to users.

**Qualifying domestic helium transaction** means any agreement entered into or any renegotiated agreement during the preceding 1-year period in the United States for the purchase or sale of at least 15,000,000 standard cubic feet of crude or pure helium to which any holder of a contract with the BLM for the acceptance, storage, delivery, or redelivery of crude helium from the Federal Helium System is a party.

**Refiner** means a person with the ability to take delivery of crude helium from the Federal Helium Pipeline and refine the crude helium into pure helium.

**Storage Contract Holder** means a refiner or non-refiner who has purchased helium through sale or auction for storage in the Federal Helium System and has a signed contract with the BLM.

**Toll or Tolling** means the practice of a helium refiner processing or refining another party's helium at an agreed upon price. Refiners are required by the Act (50 U.S.C. 167d(b)(8)(B)), as a condition of sale, to make excess refining capacity of helium available at commercially reasonable rates to: (i) Any person prevailing in auctions



under section 167d(b)(2); and (ii) Any person that has acquired crude helium from the BLM from the Federal Helium Reserve by means other than an auction under section 167d(b)(2) after the date of enactment of the HSA, including nonallocated sales.

**Toller** means a non-refiner that has an agreement with a refiner to process or refine helium.

**Tolling Agreement** means an agreement between a helium refinery, located on the Federal Helium System pipeline, and any other party (refiner or non-refiner) to refine helium for a specified volume and price.

**1.03 What is the purpose of sales and auctions?** The BLM is implementing the statutory directives to sell off the Federal Helium Reserve to a level of 3,000,000,000 standard cubic feet (3,000,000 Mcf) of recoverable helium (not including privately stored helium) (50 U.S.C. 167d(b)(5)) and implement Phase D: Disposal of assets (50 U.S.C. 167d(d)) by September 30, 2021.

**1.04 What is the estimated volume of helium available for sale, auction and delivery in each fiscal year?** The BLM has created an illustration of the gradual reduction between the present time and FY 2021 in the volume of helium in million cubic feet (MMcf) that is expected to be produced from the Cliffside Field according to current geological modeling. The graphic can be viewed at [www.blm.gov/nm/nitec](http://www.blm.gov/nm/nitec). Table 1 identifies the volumes offered for sale as part of Phase A under the Act. Those sales are divided into allocated sales for the refiners (549,000 Mcf) and non-allocated sales for the non-refiners (61,000 Mcf). Table 1 also identifies a substantial delivery of privately stored helium (564,600 Mcf), which was primarily the result of a delay in the initial FY 2014 offering and the Phase B sales in FY 2014 for delivery in FY 2015 and FY 2016.

Table 2 provides the projected volume of helium in MMcf available according to current geological modeling and provides estimated annual volumes that the BLM anticipates that it will offer, in accordance with Phase B of the Act, for sales, auctions and delivery during FY 2015 through FY 2021. Information regarding projected volumes that the BLM will offer for sale in sales conducted beginning in FY 2016 is provided for planning purposes only.

The terms “allocated sale” and “non-allocated sale” do not apply to Phase B offerings. Phase B sales are reserved for refiners, while the Phase B auctions are open to all qualified bidders. Table 3 provides an estimate of the production capability of the Cliffside Field broken into components (estimated sale volume and auction volume) and delivery of privately-owned helium, as well as an estimate of the total production.

**Table 1.** Projected Volumes for Allocated and Non-Allocated Sales, Phase B Auction and Sales, and

Private Storage Delivery for FY 2014

Fiscal Year (FY)	Forecasted Production Capability (NITEC Study)	10% Contingency	In-Kind Sales	Total Production Available for Sale/ Auction or Delivery	Volume of Private Storage Delivered prior to January 2014 Sale	Allocated Sale or Phase B Sale	Non-allocated Sale or Phase B Auction	Private Storage Delivery
	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf
FY 2014A	1,494,000	149,400	170,000	1,174,600	408,000	360,000	40,000	564,600
FY 2014B						189,000	21,000	
FY 2015*						835,315	92,813	
FY 2016**						250,000		

\*According to the Act, all of FY 2015 volumes will be sold and/or auctioned and paid for in FY 2014.

\*\*According to the Act, 250,000 Mcf of FY 2016 volumes estimated to be offered must be sold before August 1, 2014.

**Table 2.** Projected Volumes for Sales, Auctions and Private Storage Delivery for

FY 2015-FY 2021

Fiscal Year (FY)	Forecasted Production Capability (NITEC Study)	In-Kind Sales	Total Production Available for Sale/Auction/Delivery	80% Available for Sale/Auction	FY 2016 Advanced Sale (Conducted in FY 2014)	Sale Volume	Auction Volume	20% Available for Private Storage Delivery
	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf	Mcf
FY 2015	1,320,160	160,000	<b>1,160,160</b>	928,128	0	835,315	92,813	232,032
FY 2016*	1,158,150	160,000	<b>998,150</b>	798,520	250,000	348,890	199,630	199,630
FY 2017*	997,450	160,000	<b>837,450</b>	669,960	0	401,976	267,984	167,490
FY 2018*	848,280	160,000	<b>688,280</b>	550,624	0	247,781	302,843	137,656
FY 2019*	714,430	160,000	<b>554,430</b>	443,544	0	133,063	310,481	110,886
FY2020*	606,130	160,000	<b>446,130</b>	356,904	0		356,904	89,226
FY2021*	537,880	160,000	<b>377,880</b>	302,304	0		302,304	75,576

\* Delivery for FY 16–FY 21 sales and auctions will be subject to a new storage contract beginning October 1, 2015,

and projected volumes are subject to change.

**Table 3.** Summary of Total Sales, Auctions, and Delivery through FY 2021

(All Volumes in Mcf)

Total Production Capability		7,676,480
	Total Sales Volume	2,827,025
	Total Auction Volume	1,832,959
	Total In-Kind Volume	1,290,000
	Total Engineering Contingency	149,400
Total Pre-Act, Privately-Owned Helium to be Delivered		1,577,096

### Phase B Sales and Auctions

#### 2.01 What volume of helium will the BLM offer under a Phase B auction for FY

**2015?** Pursuant to 50 U.S.C. 167d(b)(12), the BLM intends to offer 92,813 Mcf for auction on July 30, 2014, for delivery in FY 2015 (hereinafter referred to as the “FY 2015 Phase B auction”).

**2.02 What will be the minimum FY 2015 Phase B auction price and minimum FY 2015 Phase B sales price, and how were those prices determined?** The minimum FY 2015 Phase B auction reserve price is \$100 per Mcf based on Producer Price Index adjustments to the open market crude sales price for FY 2014 (absent a market survey). The BLM will calculate the FY 2015 Phase B sales price using a weighted average of the average FY 2015 Phase B auction price (10 percent) and the adjusted FY 2014 helium sales price (90 percent).

**2.03 What volume of helium will the BLM offer under a Phase B sale for FY 2015?** The FY 2015 volume of helium the BLM will offer for sale will be about 835,315 Mcf (hereinafter referred to as the “FY 2015 Phase B sale”).

**2.04 What will be the price for the FY 2015 Phase B sale and how is that price determined?** The FY 2015 Phase B sales price will be calculated using a weighted average methodology as follows:

$$\text{FY 2015 Phase B sales price} = (10 \text{ percent} \times \text{AAP}) + (90 \text{ percent} \times \$100)$$

where

AAP is the average auction price in dollars

\$100 is the auction reserve price

**2.05 What volume will be sold for the FY 2016 one-time sale?** The BLM intends to offer 250 MMcf for the FY 2016 one-time sale to be conducted in FY 2014.

**2.06 What will be the price for the FY 2016 one-time sale and how was that price determined?** The price for the FY 2016 one-time sale and the methodology will be the same as the FY 2015 Phase B sales price.

**2.07 When will the sales and auctions occur?** The BLM intends to offer helium in FY 2014 according to the following schedule:

June 25, 2014 – Required forms posted to the BLM’s website

July 29, 2014 –

- Pre-bid qualification form due to the BLM
- Excess refining capacity to be reported to the BLM

July 30, 2014 – FY 2015 Phase B auction held in Amarillo, Texas

July 31, 2014 – FY 2015 Phase B auction results published on the BLM website

August 1, 2014 – Invitation for Offer – FY 2015 Phase B sale/FY 2016 one-time sale

August 14 – FY 2015 Phase B sale/ FY 2016 one-time sale complete

August 15, 2014 --

- FY 2015 Phase B sale/FY 2016 one-time sale results published
- Invoices Sent (Net 30)

September 15, 2014 □ Revenue from auction and sales due to the BLM

September 26, 2014 – Statutory deadline for receipt of revenue.

September 30, 2014 – Refiners’ FY 2014 Tolling Report due to the BLM

**2.08 What will be the auction format and who may participate?** The auction will be a live auction, held in the main conference room of the Amarillo Field Office at 9 a.m. Central Time on July 30, 2014. The address is 801 S. Fillmore, Suite 500, Amarillo, TX 79101. Anyone meeting the definition of a qualified bidder provided in section 1.02 of this Notice may participate in the auction. The logistics for the auction and the pre-bid

qualification form is included in the auction notice

at: [www.blm.gov/nm/HSAImplementation](http://www.blm.gov/nm/HSAImplementation). Questions relating to the auction can be submitted by phone to the BLM at 806-356-1001.

**2.09 Who is qualified to purchase helium at Phase B auctions?** Only qualified bidders may purchase helium at Phase B auctions. The BLM will make the final determination of who is a qualified bidder using the requirements of a qualified bidder under the Act regardless of whether or not that person was previously determined to be a qualified bidder. Prior to issuing a Notice of Sale and Auction, the BLM will notify those persons that the agency has determined to be qualified bidders.

**2.10 What are the helium lot sizes that will be available for the Phase B auctions?**

The BLM plans to auction lots consisting of 5 MMcf and 10 MMcf. Because volumes are not always going to be divisible by 5, there will be an odd lot that will range from 5 MMcf to 10 MMcf.

**2.11 How many helium lots does the BLM anticipate offering for the FY 2015 Phase B auction?** The BLM anticipates auctioning 92.813 MMcf for FY 2015. That volume would be divided as follows:

(6) lots of 10 MMcf each

(5) lots of 5 MMcf each

(1) lot of 7.813 MMcf each

**2.12 When will helium that is purchased at sale or won at auction be available in the purchaser's storage account?** The volumes purchased in the FY 2015 Phase B auction and sale and in the FY 2016 one-time sale (to be offered in FY 2014) will be transferred

to buyers' storage accounts beginning on the first day of the month following receipt of payment.

**2.13 What must I do to bid at auction?** Detailed bidding instructions, including pre-bid registration, will be provided in the auction notices. A description of the live auction process is available by calling the BLM, Amarillo Field Office, at 806-356-1001. The Auction Notice will contain information regarding the time and location of the auction, process for notification of winning bidders, payments, and how to make such payments.

**2.14 Who will be allowed to purchase helium in the FY 2015 Phase B sale?** Only those who are refiners as defined in section 1.02 of this Notice may purchase helium in the FY 2015 Phase B sale.

**2.15 How will the helium sold in the FY 2015 Phase B sale be allocated among the refiners?** The allocation to each refiner connected to the Federal Helium Pipeline, through September 30, 2015, will be based on its percentage share of the estimated total refining capability as of October 1, 2000. The BLM intends to revise the storage contract effective October 1, 2015. The current standard contract expires on September 30, 2015, and the BLM will renegotiate all storage contracts prior to the FY 2016 delivery cycle, which begins October 1, 2015. A formal letter will be sent to each storage contract holder by September 30, 2014, with information regarding the new storage contract.

**2.16 What will happen if one or more refiners request an amount other than its share of what is offered for sale?** If one or more refiners requests less than its allocated share, any other refiner(s) that requested more than its share will be allowed to purchase the excess volume based on proportionate shares of remaining refining capacities.

Requests by the crude helium refiners that are in excess of the amount available in the FY 2015 Phase B sale will not be considered.

**2.17 What will happen if the total amount requested by the crude helium refiners is less than the 835,315 Mcf offered in the FY 2015 Phase B sale?** Any excess volume not sold to the refiners in the FY 2015 Phase B sale will be available for future sale or auction.

**2.18 Do you have a hypothetical example of how a Phase B sale would be conducted?** Assume 1,000 MMcf available for the Phase B sale.

Bidder - Allocated Sale	Installed refining capacity	Refiner bid volume*	Allocated volume*	Excess volume requested*	Proration percent	Excess Allocated*	Total Allocated*
Refiner A	10%	115	100	15	20%	15	115
Refiner B	50%	400	400	0	0%	0	400
Refiner C	40%	700	400	300	80%	80+5	485
Total	100%	1,215	900	315	100%	100	1,000

\* All volumes in MMcf

After the initial allocation, Refiner B has received all volumes requested. However, 215 MMcf is deemed in excess of the total in the first iteration of the Phase B sale and reallocated to the two remaining refiners based on the refining capacity between them.

With the reallocation, Refiner A gets all volumes requested, but Refiner C is still short by 215 MMcf. Additionally, 5 MMcf remains unallocated and, without any other refiners, is awarded to Refiner C. All percentages used in the calculation will be rounded to the nearest one-tenth of one percent. All volumes calculated will be rounded to the nearest 1 Mcf.

## **Delivery of Purchased Helium, Helium Won at Auction and Pre-Helium**

### **Stewardship Act (PHSA) Helium**



**3.01 When will I receive helium that I own from purchase in a sale, or successful auction bid, or that I have in a PHSA storage account?** Helium purchased at sale or won at auction will be delivered starting October 1 of each designated fiscal year on a reasonable basis established by the BLM. The intent is to ensure timely delivery of all helium purchased or won at auction along with helium in PHSA storage accounts up to the BLM's production capability for the year. This delivery includes helium purchased or won at auction by refiners and non-refiners alike.

**3.02 How will the BLM prioritize delivery?** The Act gives priority to Federal In-Kind helium. In addition to that priority, the BLM will make delivery on a reasonable basis to ensure storage contract holders who have purchased or won helium at auction have the opportunity during the year to have that helium produced or refined. For FY 2015, the BLM will continue to allocate helium purchased during the FY 2015 Phase B sale and the FY 2016 one-time sale to refiners based on each refiner's percentage share of the estimated total refining capability as of October 1, 2000. Refiners and non-refiners would have access to In-Kind helium and to volumes won at auction in approximately equal monthly volumes. In addition, the BLM will provide refiners access to up to 20 percent of PHSA stored helium in approximately equal monthly volumes, based upon relative percentages of the privately-owned stored helium.

Non-refiners would have access to the helium volumes they purchased in the FY 2014 Phase A non-allocated sale or won at auction in approximately equal monthly volumes based upon successfully negotiating tolling agreements with refiners.

**3.03 How will the BLM deliver helium?** Delivery occurs in one of two situations—when there is a shortage or a surplus, both of which are addressed below. First, a

shortage situation is one in which the demand for helium from the Federal Helium System exceeds the maximum production capability of the system. In a shortage, the volume delivered to the refiners, including tolling of non-refiner-owned helium, would be calculated using the following equation:

$$MD = (IK_R + IK_T) + (AC_R + AC_T) + S_R + UL_T + PHSA$$

where

MD – Monthly Delivery is the volume delivered from the Crude Helium Enrichment Unit (CHEU) during a particular month.

IK<sub>R</sub> – In-Kind Refiners is the monthly amount of planned In-Kind helium sales to refiners to support Federal helium needs.

IK<sub>T</sub> – In-Kind Tollers is the monthly amount of planned In-Kind helium sales to non-refiners requiring tolling services to support Federal helium needs.

AC<sub>R</sub> – Auction Refiners is the monthly amount of planned auction-acquired helium to meet refiners' forecasted helium demand.

AC<sub>T</sub> – Auction Tollers is the monthly amount of planned auction-acquired helium to meet non-refiners' planned tolling.

UL<sub>T</sub> – Unallocated Tollers is the monthly amount of non-allocated sale-acquired helium sold during the Phase A-Transition Sales in FY 2014 but not delivered in FY 2014.

Once UL<sub>T</sub> deliveries are complete, this element will not be a part of the equation.

S<sub>R</sub> – Sales Refiners is the monthly amount of planned sale-acquired helium to meet refiners' forecasted crude helium demand.

PHSA – Pre-Helium Stewardship Act is the monthly amount of helium purchased before enactment of the HSA that remains in storage. The BLM plans to dedicate

about 20 percent of delivery capability per year to delivery of PHSA volumes, based upon the proportion to each refiner's volume in storage. This methodology will allow helium storage contract holders the opportunity to receive substantially all of their PHSA purchased volumes within 7 years. An example follows:

Refiner A owns 40 percent of the total privately owned helium in storage. The calculation for the refiner's monthly delivery of PHSA helium is:

Monthly PHSA delivery =  $(40\% \times 232,032 \text{ Mcf})/12$ , where 232,032 Mcf is the volume available in 2015 for private storage delivery

Monthly PHSA delivery = 7,734 Mcf

In a shortage situation,  $IK_R$  and  $IK_T$  will be fulfilled at 100 percent of demand. The BLM intends to deliver as much of  $AC_R$ ,  $AC_T$ ,  $S_R$ ,  $UL_T$ , and PHSA as practicable on an equitable basis.

The BLM will deliver helium to each refiner up to the prescribed amount as calculated above. If a refiner takes more than allowed, the overage will be reduced in the next calculation month. Amounts not delivered will carry forward to the next calculation month to the extent practical, as determined by the BLM.

Second, a surplus situation is one in which the demand for helium from the Federal Helium System is less than the maximum production capability of the system. The BLM will coordinate with refiners who are able to take delivery of volumes greater than their normal allocated volumes. The BLM will coordinate with refiners who are able to take delivery of volumes greater than their normal allocated volumes to balance delivery on a reasonable basis. Surplus situations provide additional capability to support tolling and delivery of additional PHSA volumes.

Surplus situations in the helium market can result in reduced demand for helium from the BLM Helium Program and lead to the BLM reducing volumes delivered or, in extreme cases, re-injecting some of the helium being produced into recoverable wells or plant shutdown.

**3.04 Do you have a hypothetical example of how the Delivery Schedule would be implemented?** Delivery is a dynamic process which takes into account a variety of factors including: Plant operating parameters, pipeline pressures, changes to refiners planned delivery, differences in planned versus actual delivery, verification process for In-Kind delivery and maintenance activities. An example of the process described in section 3.03 follows:

	<b>Planned</b>	<b>Toller A</b>	<b>Toller B</b>	<b>Refiner Allowed</b>	<b>Refiner Actual</b>	<b>Toll Actual</b>	<b>Delta Carryover</b>
<b>Refiner A</b>				<b>37,105</b>			<b>(106)</b>
In-Kind	2,000	20		2,020	1,990	20	
Auction	2,500	1,500		4,000	2,400	1,500	
Sale	24,816			24,816	25,000		
PHSA Stored	6,269			6,269	6,300		
<b>Refiner B</b>				<b>30,627</b>			<b>245</b>
In-Kind	2,000		25	2,025	2,100	25	
Auction	200		120	320	200	120	
Sale	21,056			21,056	20,900		
PHSA Stored	7,164		121	7,285	7,000	121	

In the example, Refiner A plans for delivery of 4,500 Mcf of its own In-Kind and auction helium and refining for Toller A, an additional 1,520 Mcf of Toller A's In-Kind and auction helium. Refiner A also has 24,816 Mcf available for delivery of helium purchased at sale and a percentage of the amount of its PHSA stored volume (6,269 Mcf) available for delivery.

Refiner B plans for delivery of 2,200 Mcf of its own In-Kind and auction helium and refining for Toller B, an additional 266 Mcf of Toller B's In-Kind, auction, and PHSA helium. Refiner B also has 21,056 Mcf available for delivery of helium purchased at sale and a percentage of the amount of its PHSA stored volume (7,164 Mcf) available for delivery.

Refiner A overdrew its allowance of helium acquired at sale by 106 Mcf. This overage will be deducted during the next calculation month. Toller A had its In-Kind and auction helium refined.

Refiner B drew less than its allowance of helium acquired at sale by 245 Mcf. The volume may still be available for delivery in the next calculation month, based upon the total demand and production capability for that month.

In cases where the volumes requested for the month exceed the BLM's production capacity, the BLM may have to limit delivery to refiners. In those situations, any undelivered gas would remain in the refiners' storage accounts.

In cases where tolling is not occurring and pipeline pressure is rising, the BLM would systematically reduce plant operations to lower levels and potentially re-inject helium or, in the extreme, cease plant production during a particular month.

### **In-Kind Program**

**4.01 What is the Federal In-Kind Program?** Federal helium suppliers who have contracts to supply helium to the Federal government (agencies, government contractors, and universities with certified Federal grant numbers) are required to buy like amounts of helium from the Federal Helium Reserve. The supplied helium may originate from sources other than the Federal Helium Reserve. Replenishment of helium volumes

provided to the government typically takes about 5 months to complete. However, the helium is sold to the suppliers at a discounted rate compared to open market rate.

**4.02 Who participates in the Program?** Federal helium suppliers, Federal agencies, and grant recipients participate in the Federal In-Kind Program.

**4.03 How do I participate?** You may be a participant in the Federal In-Kind Program if you are a supplier of pure helium and have entered into contracts to supply helium to the Federal Government, you are a Federal agency requesting helium deliveries, or you are a Federal end user with a per location local volume of 200 Mcf per year and wish to participate in the In-Kind program. Potential Federal end users/Federal grant recipients

and universities are encouraged to register with the BLM at the provided web page link:

<http://www.blm.gov/nm/heliumops>

Sheila Mallory

Acting State Director

AUTHORITY: The Helium Stewardship Act of 2013, Public Law No. 113-40, codified to various sections in 50 U.S.C. 167-167q

[FR Doc. 2014-17376 Filed 07/22/2014 at 8:45 am; Publication Date: 07/23/2014]